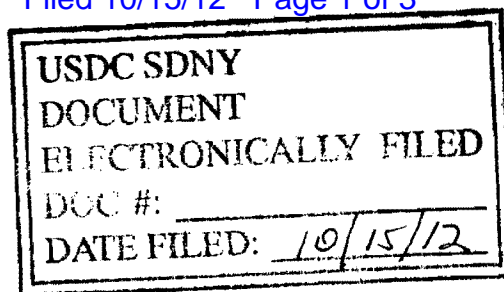


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



-----X  
MICHAEL CACOPERDO,

Plaintiff,

v.

HARTFORD LIFE INSURANCE COMPANY,

Defendant.  
-----X

**ORDER**

10 CIV 7847 (RPP)

**ROBERT P. PATTERSON, JR., U.S.D.J**

On June 1, 2012, Plaintiff Michael Cacoperdo filed a motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure arguing that Defendant, Hartford Life Insurance Company ("Hartford"), had acted in an arbitrary and capricious manner when it terminated his long-term disability benefits under a welfare benefit plan governed by the Employment Retirement Income Security Act of 1974, 29 U.S.C. § 1001 (et seq.). That same day, Hartford filed a cross-motion for summary judgment arguing that its decision to discontinue Plaintiff's benefits was supported by substantial evidence showing that Defendant had adequate grounds to determine Plaintiff was capable of performing a regular work schedule in a sedentary to light work category job.

The Court, having heard the arguments of counsel on September 14, 2012 and having considered the briefs and evidence in support of and in opposition to these Rule 56 motions, concludes that material issues of fact exist as to whether Plaintiff has the functional capacity to perform sedentary to light work activities on a regular basis, as claimed by Hartford.

It is therefore ordered that:

1. Plaintiff's Motion for Summary Judgment is DENIED;
2. Defendant's Motion for Summary Judgment is DENIED.


It is further ordered that:

3. Plaintiff's request to withdraw the "Proposed Findings of Fact" dated July 11, 2012 is GRANTED;
4. Defendant's Motion to Strike the declaration of Jason A. Newfield dated July 11, 2012, as well as "Exhibit A" attached to the declaration, is GRANTED.

The Court sets trial for December 3, 2012. A pre-trial conference is scheduled for October 29, 2012. Any voir dire requests, in limine motions, or requests to charge must be submitted to the Court by November 19, 2012.

IT IS SO ORDERED.

Dated: New York, New York  
October 15, 2012

A handwritten signature in black ink, appearing to read "Robert P. Patterson, Jr.", written over a horizontal line.

Robert P. Patterson, Jr.  
U.S.D.J.

Copies of this order were faxed to:

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